

DEPARTMENT OF STATE REVENUE

LETTER OF FINDINGS NUMBER: 98-0691P

Gross Income Tax

Calendar Years 12/31/93, 12/31/94, 12/31/95, and 12/31/96

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ISSUE(S)

I. **Tax Administration** – Penalty

Authority: IC 6-8.1-10-2.1(d); 45 IAC 15-11-2

Taxpayer protests the penalty assessed.

STATEMENT OF FACTS

Taxpayer is an out of state corporation upon which an audit was completed on August 13, 1998.

The audit assessed gross income tax on receipts from activities associated with a business situs in the State of Indiana. The department assessed a negligence penalty because the taxpayer was audited previously and the issues were similar. Taxpayer also failed to report RAR adjustments in 1993 as required under 45 IAC 3.1-1-94.

Taxpayer protests the penalty and states it was not negligent in its treatment of the transactions, rather, such failure to reflect the proper impact of its business on its Indiana tax filing was due to the unique nature of its business.

I. **Tax Administration** –Penalty

DISCUSSION

Taxpayer was assessed a negligence penalty for failure to report low rate income, include in its apportionment factor its inventories in Indiana, and to report its Federal RAR adjustments.

Taxpayer states it was not negligent in its treatment of these transactions and requests the department waive the penalties.

Taxpayer's request for penalty waiver is disallowed as it made no corrections for reporting its gross income at the low rate of tax, failed to report Federal RAR adjustments and failed to include inventories in its apportionment factor.

Taxpayer has not demonstrated reasonable cause for failing to report Indiana income.

FINDING

Taxpayer's protest is denied.